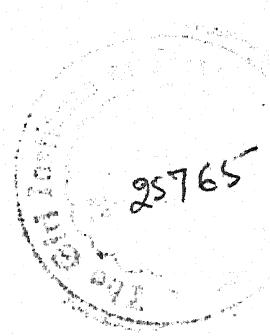


A COMPARATIVE STUDY OF
PANCHAYATI RAJ ACTS AND RULES
IN SELECTED STATES



By

Ajit Kumar Singh

352-122

GIRI INSTITUTE OF DEVELOPMENT STUDIES
Sector 0, Aliganj Housing Scheme
LUCKNOW 226 020

April 1995

PREFACE

The Seventy-Third Constitution Amendment Act, 1993 by providing a constitutional status to Panchayats marks a major step towards the creation of a decentralized polity in the country. Following the Constitutional Amendment Act various State Governments have enacted their own legislation on Panchayati Raj following the constitutional guidelines and are now in the process of operationalising the system of Panchayati Raj in their respective states. The Seventy-Third Amendment Act lays down the basic structure of Panchayati Raj Institutions through its mandatory provisions. However, there are several non-mandatory provisions with respect to which states were left free to make their own provisions in view of their specific situation.

In the present study we have made a comparative study of the Panchayati Raj Acts and Rules in selected states with a view to draw appropriate lessons from the salient features of the Panchayati Raj Act passed recently in the selected states. For the purpose of the study six states were selected namely, Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Rajasthan and Uttar Pradesh. The selection of states is fairly reflective of the varied experiences and models of Panchayat Raj being practised in the country. The study is expected to provide an understanding of the evolving

Panchayati Raj system in the country in the light of the recent Constitutional Amendment.

The study was sponsored by the Administrative Reforms and Decentralisation Commission, Government of U.P. I express my thanks to Shri J.L. Bajaj, IAS, Chairman of the Commission for sponsoring the study and for taking deep interest in its completion. I am also thankful to the authorities of U.P. Development Systems Corporation and officials of the concerned departments of different State Governments for providing necessary information and extending their cooperation in the completion of the study.

I would like to express my appreciation of the sincere work done by Shri Ravi Prakash Rai as Research Assistant in the project and the infrastructural support extended by the Institute staff. Shri Manoharan K deserves a pat on his shoulders for his quiet and efficient word processing of the report.

I hope that the study will be found useful by the policy makers, officials and others interested in the unique Indian experience in decentralization of planning process.

A K SINGH

Giri Institute of Development Studies,
Lucknow

April 1995.

COMPARATIVE STUDY OF PANCHAYATI RAJ ACTS AND RULES IN SELECTED STATES

I. INTRODUCTION

Democratic decentralization has remained a basic tenent of national policy ever since India attained Independence in 1947. Various Committees appointed by the Central and State Governments have reiterated their faith in the Panchayati Raj Institutions as the most suitable agencies for participatory planning to bring administration and development programmes nearer to the people. Some states like U.P. and Rajasthan had passed their Panchayati Raj Act setting up village panchayats soon after Independence. But basic thrust to Panchayat Raj was given by the Balwant Rai Mehta Committee Report 1957 following which a 3 tier structure of Panchayati Raj Institutions was created in most of the states. The initial enthusiasm displayed by the State Governments for democratic decentralization was soon replaced by apathy and the young plant of Panchayati Raj failed to develop strongroots in most of the states.

The decade of the eighties again saw a concerted effort to restructure and revitalize the Panchayati Raj Institutions in states like Andhra Pradesh, Karnataka and West Bengal.

The success of these efforts resulted in a renewed enthusiasm and support for Panchayat Raj, which culminated in the Constitution (Seventy Third Amendment) Act, 1992 granting a Constitutional Status to the Panchayati Raj Institutions.

The Seventy Third Constitutional Amendment Act lays down the basic structure of Panchayati Raj Institutions through its mandatory provisions. However, there are several non-mandatory provisions with respect to which states may make their own provisions in view of their own specific situation. The states were required to give effect to the Constitutional Amendment by 24 April 1994. The states of Maharashtra, Orissa, Uttar Pradesh and West Bengal have now made necessary amendments in their existing Acts, while other states have passed new legislation in the light of the Constitutional Amendment.

In the present Chapter we have made a comparative study of the Panchayati Raj Acts and Rules in selected states with a view to draw appropriate lessons from the salient features and innovative aspects of these Acts. For the purpose of comparison, six states have been selected, namely, Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Rajasthan and Uttar Pradesh. The selection of states is fairly reflective of the varied experiences and models of Panchayati Raj being practised in the country.

We first begin with a brief history of Panchayati Raj Legislation in these States.

II. HISTORY OF PANCHAYAT RAJ LEGISLATION

Uttar Pradesh was among the pioneering states to introduce the Panchayati Raj System. The United Provinces Panchayat Raj Act was passed as early as 1947 with a view to establish and develop local self government in the rural areas and to make better provision for village administration and development. U.P. again was among the first states to establish a three tier system of Panchayat Raj Institutions (PRIs) following the Balwant Rai Mehta Committee Report, 1957. The U.P. Kshettra Panchayat and Zilla Panchayats Act was passed in 1961. The aim of the legislation was to undertake certain governmental functions at Kshettra and district levels and to correlate the powers and functions of Gram Sabhas. The two Acts were amended in April 1994 incorporating the mandatory provisions of the Seventy Third Constitutional Amendment Act, 1992.

In Gujarat the three tier Panchayati Raj System was ushered in through the Gujarat Panchayats Act, 1961 which was enacted in 1962 and came into force from April 1963. The 1961 Act was replaced by the Gujarat Panchayats Act, 1993 following the Constitutional Amendment.

Madhya Pradesh passed its Panchayat Raj Act in 1962. The three tier system was introduced by the Madhya Pradesh Panchayat Act, 1981 following which elections were held during the period 1985. The Act was amended in 1990. The

provisions of the Seventy Third Constitutional Amendment have been incorporated in the Madhya Pradesh Panchayati Raj Act, 1993.

In Rajasthan a unified Panchayati Raj Act was passed in 1953 after the reorganization of the State, which came into force in January 1954. Rajasthan was the first state to introduce the three tier PRIs under the Rajasthan Panchayat Samitis and Zilla Parishad Act, 1959. The 1959 Act has now been replaced by Rajasthan Panchayati Raj Act, 1994.

Andhra Pradesh also introduced the system of democratic decentralization in 1959. The Act was amended in 1964 and 1988. The Andhra Pradesh Mandal Praja Parishads, Zilla Praja Parishads and Zilla Pranalika Abhivrudhi Act was passed in 1986 which introduced the concept of Mandal Panchayats covering a group of villages. The Constitutional amendments have now been incorporated in the Andhra Pradesh Panchayati Raj Act, 1994.

In Karnataka the history of Panchayati Raj legislation has been more checkered. Mysore Village Panchayats and District Board Act was passed in 1952, but it proved to be short lived and controversial. In 1959 the Karnataka Village Panchayats and Local Boards Act was enacted. But soon after another Committee was appointed under the Chairmanship of K. Basappa and in 1964 Karnataka Panchayati Raj Bill was introduced incorporating its recommendations. Though progressive in its provisions the bill could not see the

light of the day. The real political support to democratic decentralization came in 1983, when the Karnataka Zilla Parishads, Taluk Panchayati Samitis, Mandal Panchayats and Nyaya Panchayats Bill was passed. The bill could be brought into force in August 1985 only and the newly elected PRIs started functioning from 1st April 1987. The 1985 Act was amended in 1990 and has now been replaced by the Karnataka Panchayati Raj Act, 1993.

III. STRUCTURE OF PRIS

Some differences in the structure of PRIs are to be observed in the states under study. In U.P., M.P., Rajasthan, Karnataka and Gujarat a three tier structure existed even earlier at the village, block and district levels. The intermediate level institution was called Kshetra Samiti in U.P., Panchayat Samiti in Rajasthan, Janpad Panchayat in M.P. and Taluk Panchayat in Gujarat and Karnataka. The two states of Andhra Pradesh and Karnataka also had the institution of Mandal Panchayat covering a group of villages on the lines recommended by the Ashok Mehta Committee Report. There are certain advantages from planning point of view in having a body at the Mandal level, since a village is considered to be too small a unit for spatial planning, while the Taluk or Block level may be considered too large for effective peoples' participation.

Now in the wake of the Seventy Third Constitutional Amendment a uniform three tier system of PRIs has been introduced in all the states though the nomenclature differs among states as shown below :

State	Bottom Tier		Intermediate Tier		Upper Tier	
	Level	Body	Level	Body	Level	Body
Andhra Pradesh	Village	Gram Panchayat	Mandal	Mandal Panchayat	District	Zilla Panchayat
Gujarat	Village	Gram Panchayat	Taluk	Taluk Panchayat	District	District Panchayat
Karnataka	Village	Gram Panchayat	Taluk	Taluk Panchayat	District	Zilla Panchayat
Madhya Pradesh	Village	Gram Panchayat	Block	Janpad Panchayat	District	Zilla Panchayat
Rajasthan	Village	Gram Panchayat	Block	Panchayat Samiti	District	Zilla Panchayat
Uttar Pradesh	Village	Gram Panchayat	Block	Kshetra Panchayat	District	Zilla Panchayat

The average size of PRIs at various levels in these states has been shown below:

State	Average Population per Gram Panchayat	Average No. of Villages per Gram Panchayat	Average No. of Gram Panchayat per Samit	Average No. of Panchayat per Samitis over Zilla Parishad
Andhra Pradesh	2108	1.5	17.9	49.6
Gujarat	1764	1.4	73.1	9.6
Karnataka	10081	10.7	14.7	9.0
Madhya Pradesh	3000	4.1	41.0	10.2
Rajasthan	3680	5.0	31.0	8.8
Uttar Pradesh	1230	1.5	82.6	14.2

Source : Panchayati Raj Institutions in India, 1991, Ministry of Rural Development, Government of India.

The number of PRIs in U.P. is very large due to its large population followed by M.P. The average size of the village panchayat is as low as 1230 in U.P. and as large as 10081 in Karnataka. The area of Gram Panchayats in Karnataka, M.P. and Rajasthan are spread over several villages but in A.P., Gujarat and U.P. it is more compact. The number of lower and middle level institutions per Zilla Parishad also show large variations, which has important implications for the resource position and administrative control and supervision of the PRIs.

The number of PRIs at various levels in the selected states have been shown below :

State	Lower Level (Gram Panchayat) (No.)	Middle Level (Panchayat Samiti or Taluk Panchayat) (No.)	District Level (Zilla Panchayat) (No.)	Rural Population Covered (Lakhs)	Villages (No.)
Andhra Pradesh	19517	1092	22	411	29293
Gujarat	13311	182	19	235	18550
Karnataka	2536	172	19	256	27024
Madhya Pradesh	18801	459	45	416	76603
Rajasthan	7363	237	27	271	37124
Uttar Pradesh	73927	897	63	909	112566

Source : Panchayati Raj Institutions in India, 1991, Ministry of Rural Development, Government of India.

IV. GRAM PANCHAYAT : COMPOSITION, POWERS AND FUNCTIONS

Area

Village panchayats have been created for a single village or group of villages depending on the population size. Population covered by a village panchayat may vary from 3000 to 15000 in Andhra Pradesh and 500 to 10000 in

Gujarat while it may vary from 5000 to 7000 in Karnataka. Rajasthan Act provides for a minimum size of village at 3000, while in M.P. no population size has been prescribed. In U.P. minimum size has been fixed at 1000.

Size

Various Acts provide for varying number of members of village panchayat depending on the size of population. The numbers may vary between 5 and 21 in A.P., 7 to 15 in Gujarat, 10 to 20 in M.P., 9 to 15 in U.P. In Karnataka there is a provision for one member for 400 population, while in Rajasthan minimum members have been kept at 9, with 2 additional members for every 1000 population. Thus the new Acts do provide for a fairly close and direct representation of residents of a Gram Sabha in the village panchayats. In all the states there is a provision for direct election by all adult persons.

Qualification of Panchayat Members

Every person whose name is included in the voters list of Gram Panchayat is, unless disqualified under the Act, is eligible to become member of the Gram Panchayat. Disqualifications are generally similar in all the states and include

persons holding a public office, persons imprisoned for more than six months under IPC, a defaulter, deaf and dumb persons, persons with unsound mind, person guilty of moral turpitude, etc.

In Karnataka persons convicted under the Protection of Civil Rights Act, 1955 and under the Bombay Prohibition Act, 1949 are also rendered non-eligible for membership of Panchayats. Similarly in Rajasthan persons convicted under Rajasthan Death Feast Removal Act, 1960 are declared to be disqualified. Andhra Pradesh and Rajasthan Acts have also introduced another progressive condition for membership, that is, the person should not have more than two children after the passing of the Act.

Reservations

Mandatory provisions in the state Acts have to be made for reservation of seats for SC, ST and women. The PR Acts in all the six states provide for statutory reservations for SC and ST members in proportion to their share in population. A desirable feature of the Karnataka Act is prescription of a minimum of 15 per cent seats for SC and 3 per cent seats for ST. Again all the state Acts have provided for the mandatory one-third seats for women in each category. All these states have also made reservations for backward classes, though it is a non-mandatory provision. While U.P. Act has made

reservation to this category in proportion to population, other states have followed the principle of fixed reservation - 10 per cent in Gujarat, 15 per cent in Rajasthan, 25 per cent in Madhya Pradesh and 33.3 per cent in Andhra Pradesh and Karnataka. Thus the backward classes would get a larger representation in Village Panchayats in U.P. The provision for reservation for SC, ST, backward classes and women in the village panchayats is expected to allow these sections a larger say in managing the affairs of the village panchayats and over the long run bring about a significant change in rural power structure in the villages, which has so far thwarted the benefits of development programmes from reaching the villages.

Chair Person

The Chair person of the village panchayat is called Pradhan in U.P., Adhyaksha in Karnataka and Sarpanch in all other states. Reservation for various categories are made in the same proportion as for membership. There is provision of direct election of Sarpanch and indirect election of Up-Sarpanch in A.P., Gujarat, M.P. and U.P., but in Karnataka and Rajasthan both are elected indirectly. The system of direct election of the Chair Persons of village panchayats is to be preferred as it would reflect the support of the Gram Sabha members and prevent manipulations which are possible in a smaller group.

Removal of Sarpanch and Up-Sarpanch

All the state Acts provide for the removal of the Sarpanch and Up-Sarpanch of the Gram Panchayat through a no confidence motion passed with two-thirds majority in a special meeting called for the purpose. Such a no confidence cannot be brought within one year of assumption of office in U.P. and two years in M.P. and Rajasthan. This is expected to give some stability to the office of the village Sarpanch. All the state Acts also provide for the suspension and removal of the Sarpanch and Up-Sarpanch by the State Government or the prescribed authority on charges of misconduct, abuse of power, refusal to work, incapability of work, etc. This power has been given to the Commissioner in Karnataka, while in Gujarat the District Development Officer can suspend the Village Sarpanch or Up-Sarpanch. Such a provision may be regarded as unnecessary bureaucratic control over democratic bodies. It has been, on the other hand, defended on the grounds of administrative control to ensure accountability and prevent misuse of public office.

Meetings and Quorum

Village panchayats are required to meet at least once a year in M.P. and at least twice in a year in Gujarat, but in A.P., Karnataka and U.P. they are required to meet more

frequently, i.e. once in two months. Rajasthan Act, however, has a provision for meeting as often as twice a month. The meetings are to be presided over by the Sarpanch or the Up-Sarpanch. The quorum for meetings has been put at one-third in A.P. and Karnataka, one-fifth in U.P. and one-tenth in M.P. and Rajasthan. The practice of having at least one-third quorum is desirable to prevent a tiny minority from taking important decisions. From this point of view the provision of quorum at one-fifth in the U.P. Act appears to be on the lower side.

Secretary and Other Staff

All the Acts provide for the appointment of a Secretary called Sachiv or Talathi for a single or a group of Gram Panchayats. Provisions for the appointment of the Panchayat Secretary and other staff are similar in all the states. The power to appoint the Secretary has been retained by the Government in all the States. Other Staff, which is paid out of the funds of the Gram Panchayat, may be appointed by the Gram Panchayat with prior approval of the prescribed authority. The C.E.O. is the prescribed authority for this purpose in Karnataka, while this power vests in the Panchayat Samiti in Rajasthan. In Gujarat the Talathi performs the functions of the V.I.W, the Lekhpal as well as the Secretary of the Panchayat as most of the revenue functions have been transferred to the Panchayats. This system is more effective as well as less costly from the administrative view point.

Dissolution of Gram Panchayats

In all the states the State Government has assumed the power to dissolve the Gram Panchayat if it is of the view that the Gram Panchayat has exceeded or abused its power or is not competent to perform or makes persistent default in the performance of the duties imposed on it. But before taking such a decision opportunity will be given to the concerned Gram Panchayat to offer its explanation and objections. In Karnataka this power is exercised by the Commissioner. In Gujarat such a decision can be undertaken after consultation with the concerned district panchayat. These provisions may be justified on administrative grounds, but are in fact against true democratic spirit and also provide opportunity for political misuse.

Powers of the Government for Control and Inspection

Under the Panchayat Raj Acts in all the states the State Government have been given the power to issue instructions for performance of a specific duty by the Gram Panchayat in case of default or to get the task performed by another authority and realise the cost from the panchayat. The state Governments further have the power to prohibit the execution of a resolution or order passed by the Gram Panchayat or any officer or servant thereof if this order is against any law or is likely to cause injury or annoyance to the public or to

lead to a breach of peace. The State Governments have further armed themselves with the general powers of control over panchayat bodies such as the power for inspection of any property, or work in progress, or the books and records of the Panchayat, or to institute any enquiry in respect of any matter relating to a Gram Panchayat. Thus, these bodies in effect remain the creature of the State Governments.

Committee of Gram Panchayat

The PR Acts provide for creation of various committees for discharge of specific functions of the Gram Panchayat. In U.P. the Gram Panchayat is also the Bhumi Prabandhak Samiti responsible for the up-keep, protection and supervision of all property belonging to or vested in the Gram Panchayat. The U.P. Act also provides for the constitution of the following four committees : Samata Samiti (Social Justice Committee); Vikas Samiti (development committee); Shiksha Samiti (education committee); and Lok Hit Samiti (Social Welfare Committee). Each Committee has 2 to 4 members. Similar committees have also been provided for in other state Acts. M.P. Act provides for creation of three committees but does not specify them. The Gujarat Act specifies two such committees - an executive Committee and a Social Justice Committee. In A.P. there is a provision of a beneficiary Committee in addition to functional committees for specific areas. In Karnataka every Gram Panchayat is

required to constitute three committees, namely, Production Committee, Social Justice Committee and Amenities Committee.

Functions

The Seventy Third Constitutional Amendment enjoins on the State Governments to provide such powers and responsibilities to PRIs to enable them to function as institutions of local self government with specific reference to the following :

- (i) Preparations of plans for economic development and social justice; and,
- (ii) Schemes of economic development and social justice which may be entrusted to them including those mentioned in the Eleventh Schedule.

All the state P.R. Acts have given effect to these provisions and have spelled out the functions of the Panchayat bodies in detail. The U.P. list literally follows the Eleventh Schedule in words and order adding just one function, i.e., plan for economic development. The list of functions of the Gram Panchayat is much more specific and detailed in the PR Acts of Gujarat, Karnataka and Rajasthan. The Gujarat list extends to over 100 items arranged under 10 heads. The M.P. list of functions is the shortest and skips over several areas included in other state lists. The M.P. list is largely confined to the functions related to civic amenities and social welfare. Developmental functions are not mentioned at all. However, there is a general enabling

clause to perform such functions as may be entrusted to it by the State Government, Zilla Panchayat or Janapad Panchayat.

The functions of Gram Panchayats included in the Eleventh Schedule and incorporated in the State PR Acts cover a number of fields :

- (1) Programmes for productive activities such as agriculture, animal husbandry, poultry, fishery, small scale and cottage industries, fuel and fodder, irrigation, etc.
- (2) Land development programmes including land reforms, soil conservation, wasteland development, social forestry, grazing lands, etc.
- (3) Provision of civic amenities including drinking water, rural electrification, rural roads, bridges, culverts, waterways, sanitation, rural housing, health facilities, etc.
- (4) Education and cultural activities including primary schools, adult education, technical education, libraries, etc.
- (5) Social welfare activities including women and child development, care of disabled and old persons.
- (6) Poverty alleviation and other programmes for the social and economic upliftment of the weaker sections.
- (7) Maintenance of community property and assets.
- (8) Organisation and control of rural markets and village fairs, etc.

In the present stage of the evolution of the PRTs institutions they are to carry out the functions and duties as entrusted by the State Governments, whose legal creature these institutions are. The level of devolution of functions and powers to PRIs reflects the political and bureaucratic support these institutions enjoy in a particular state.

While some states like Gujarat and Karnataka have moved considerably ahead, other states are lagging behind in this respect. The provisions of the Seventy Third Constitutional Amendment do succeed in removing the political and bureaucratic resistance found at the state level to some extent. The capability of the Village Panchayats to function as units of self government should be gradually built up by entrusting them more powers and functions over time.

Panchayat Funds and Sources of Revenue

All the PR Acts have created a State Finance Commission to give recommendations about the distribution of financial resources between the State Government and the PRTs as well as the taxes, duties and fees to be assigned to them. The Acts also provide for the creation of a Village or Panchayat Fund to which all the financial proceeds received by the Gram Panchayat are to be credited. The Gram Panchayats have also been empowered to borrow funds subject to prior approval of the government.

The Acts have empowered the Gram Panchayats to levy and collect specific taxes, duties, tolls and fees. In many cases the minimum and maximum rates have been prescribed by the Act. Most of these powers are common to the Acts and generally include the following :

Taxes upon buildings and lands; water tax and water rates for provision of water for drinking or other purposes; tax on means of entertainment; tax on animals and vehicles; pilgrim fee; market fee; sanitation tax; tax for cleaning and lighting of streets.

There are some sources of taxation included in some State Acts and not in others, for instance bus or tonga stand tax (in Karnataka, Gujarat and Madhya Pradesh); advertisement and hoarding tax (Gujarat); Grazing tax (Karnataka and Gujarat); profession tax (Madhya Pradesh); tax on commercial crops (Rajasthan). Tax for provision of specific services may also be levied in some states.

In Karnataka the Gram Panchayat has been entrusted with the responsibility for collection and recovery of land revenue. There is a provision for imposition of cess on land revenue in the states under study normally varying from 0.25 paise to 0.50 paise per rupee of land revenue. The proceeds are generally shared by different level PRIs.

In M.P. there is a cess on stamp duty which is shared between the Gram Panchayats and Janapada Panchayats.

The M.P. Act also makes a distinction between obligatory taxes and the optional taxes to be imposed by the village panchayats. The obligatory taxes include property tax on land and buildings, tax on private latrines, light tax, profession tax, market fee and cattle fee. Some other states have also declared specific taxes as obligatory on Gram

Panchayats. The obligatory taxes include surcharge on land revenue in U.P.; tax on buildings and lands not subject to agricultural assessment in Gujarat; and tax on house, tax on village produce sold in the village and tax on advertisement in A.P. This distinction appears to be useful in as much as it puts a check on the tendency of Gram Panchayats to avoid taxation and depend more on grants, etc.

An important and worth emulating provision which exists in Karnataka Act is that of a statutory annual grant of rupees one lakh (now proposed to be raised to rupees one and a half lakhs) to every Gram Panchayat. This grant is meant to be utilized for meeting the electricity charges, maintenance of water supply schemes, sanitation and other welfare purposes. This is an important innovation in strengthening Gram Panchayat finances and provide a minimum level of civic amenities in all villages irrespective of their resource position.

V. INTERMEDIATE LEVEL PANCHAYAT : Composition, Powers and Functions

Area

All the states under study had an intermediate level Panchayat body even before the passing of the Seventy-Third Amendment. These intermediate bodies exist at the Block level in U.P., M.P. and Rajasthan at Taluk level in Gujarat and Karnataka and at the Mandal level in Andhra Pradesh. In

Gujarat and Karnataka intermediate Panchayat is called Taluk Panchayat, in Andhra Pradesh Mandal Panchayat, in Madhya Pradesh Janpad Panchayat, in Rajasthan Panchayat Samiti and in U.P. Kshettra Panchayat. This difference in nomenclature leaves scope for some confusion.

Size

In A.P. there is provision for one member for 3000 to 4000 of population, in M.P. there is one member for 5000 of population, while in Karnataka there is one member for 10,000 of population. In Rajasthan there will be 15 members for 1 lakh of population and 2 additional members for each additional 15,000 population. In Gujarat the minimum number has been kept at 15. In U.P. there shall be one member from each territorial constituency of 2,000 persons.

Constitution

The intermediate panchayat consist of directly elected members as specified above as well as local members of legislature and ex-officio or coopted members. In A.P., Karnataka and U.P. local MLA, MLC and MP are members of this body. In Gujarat the MLA is only a permanent invitee without a right to vote. This ensures the participation of the MLAs in deliberations but prevents them from overshadowing its functioning.

In U.P. all the Pradhans of the Gram Panchayat in the Block are also ex-officio members of the Kshettra Panchayat, while in Karnataka one-fifth of the Gram Panchayat Adhyakshas are members for one year by rotation. It is desirable for operational purposes to associate Gram Panchayat Pradhans in the Block level bodies. Such provision, however, do not exist in other states.

In A.P. there is also a provision for coopting one member belonging to the minorities. In M.P. provisions exist for cooption of members representing SC and ST, director of cooperative marketing society or cooperative bank, and a member of market committee, if the elected members do not include representatives from this category.

Reservations

The provision for reservation for SC, ST and backward classes and women in the number of elected members of the intermediate panchayats exist in all the PR Acts on similar lines as in the case of Gram Panchayats.

Chair Person

There is provision for an elected President and Vice President of the intermediate level Panchayat body. In U.P. two Vice Presidents have to be elected called Senior and

Junior Vice President. While the Chair Person is designated as President in A.P., Gujarat and M.P., he is called Adhyaksha in Karnataka, Pradhan in Rajasthan and Pramukh in U.P. The Presidents and Vice Presidents are elected by the elected members of the intermediate Panchayats from among themselves in all states except M.P., where all members are eligible to vote for the election of President or Vice-President. There is provision of reservation for the posts of President for different categories on similar lines as for Gram Pradhans.

Removal of President and Vice President

The PR Acts contain provision for removal of the President and Vice President of the intermediate level Panchayat through a no confidence motion passed by elected members with a simple majority in Karnataka and U.P. and by two-thirds majority in M.P., Gujarat and Rajasthan. Such a confidence motion cannot be moved before expiry of one year from assumption of office in M.P. and U.P. and 2 years in Rajasthan.

All the state governments have also armed themselves with the powers to remove the Chair Person, after given him due opportunity to explain his case, on grounds of misuse of authority or being persistently remiss in the discharge of his duties. This power is given to a designated authority in

Gujarat. In U.P. the Adhyaksha of the concerned Zilla Parishad shall be consulted before such an action is taken.

Meetings and Quorum

The intermediate level PR body is required to meet at least once in three months in Gujarat, once in two months in Karnataka and U.P. and once every month in M.P. and Rajasthan while in A.P. Act frequency of meeting is not specified. The quorum has been fixed at one-half of membership in M.P. and at one-third of membership in Karnataka, Gujarat and Rajasthan. But in A.P. and U.P. Act quorum is not specified.

Staff

The Mandal/Taluk/Block Development Officer is generally the ex-officio Chief Executive Officer of the middle level Panchayat. In Karnataka the government appoints a Group A Officer of the State Civil Services as the CEO of the Taluk Panchayat. In M.P. also the State Government appoints the CEO of the Janapada Panchayat. The power to lay down the number of other staff, their qualifications and pay scales, etc. vests with the State Government. The practices with this respect vary from state to state. In Gujarat a separate cadre of Panchayat Service has been created. In U.P. it has been decided to place the services of the officers and staff of the development blocks at the disposal of Kshettra Panchayat.

In Andhra Pradesh the Mandal Parishad Development Officer and other officers and staff of a Mandal Parishad and the staff employed in the institutions and schools under the Mandal Parishad have been put under the control of the Mandal Parishad.

In Karnataka the government posts officers and staff belonging to category A, B, C or D services of the state to work under the Taluk Panchayat. In M.P. and Rajasthan also the government deputes staff to the service of the panchayat bodies. In these two states the panchayat bodies are also empowered to create additional posts with prior approval of prescribed authority.

Committees

A number of committees have been provided in the PR Acts to look after specific functions. In Gujarat there are two committees. The Executive Committee which consists of 9 members and has a two year term. The Social Justice Committee consists of 5 members and has a 5 year term.

In Karnataka there is provision of three standing committees with six members each, namely, General Standing Committee, Finance, Audit and Planning Committee; and Social Justice Committee. The Adhyaksha of the Taluk Panchayat is the Chairman of the first two committees and the Upadhyaksha the Chairman of the third Committee.

The M.P. Act provides for as many as five committees :

- (a) General Administrative Committee
- (b) Agriculture Committee
- (c) Education Committee
- (d) Communication and Works Committee
- (e) Cooperation and Industries Committee.

In Rajasthan there are four committees for the following subject groups :

- (a) Administration, Finance and Taxation
- (b) Production Programmes
- (c) Education
- (d) Social Justice and Service.

The term of the committees is for one year.

The U.P. Act provides for four committees, namely, executive committee, finance and development committee, education committee and social justice committee. The committees are elected by members of the Kshettra Panchayat and consist of one member from each circle within the block. The Pramukh is the Chairman of the executive committee and the senior Up-Pramukh that of the finance and development committee and social justice committee, while the Junior Up-Pramukh is Chairman of the education committee. The term of the committees has been kept at one year.

In Andhra Pradesh PR Act, however, there is no specific provision for committees at the Mandal Panchayat level, though such committees exist at other levels.

Under the PR Acts the state governments have been given the power to assign or withdraw any function to the PRIs at different levels. Schedules specifying the functions of the PRIs on the lines of the Eleventh Schedule of the Constitution are included in the PR Acts. The activities to be performed by the intermediate panchayats cover a large area from production related activities for various sectors to provision of social services and civic amenities and organization of relief at times of natural calamities along with a number of social welfare activities. The PR Acts, however, differ in the scope and coverage of functions to be performed by the intermediate level panchayats. Some of these differences are highlighted below.

The list of functions is relatively shorter in the case of M.P. and A.P. PR Acts. The M.P. Act lumps most of the functions of Janapad Panchayat under one paragraph. The AP Act gives detailed functions only under four heads covering community development, agriculture, animal husbandry and health. The M.P. Act contains the provision that the Janapad Panchayat shall control and supervise the administration of Community Development Blocks and Tribal Development Blocks and the functions assigned to blocks shall be implemented under direction and control of Janpad Panchayat. Thus the block level developmental machinery is effectively put under the Janpad Panchayat in M.P. Such provisions do not exist in other Acts.

The A.P. Act also enjoins on the Mandal Parishad to instil among the people spirit of self help and initiative and harness their enthusiasm for raising the standard of living. The Gujarat and Rajasthan Acts specifically mention promotion of cooperative activities through establishment and strengthening of cooperative societies. The Gujarat Act mentions training in self help and self sufficiency among the village community as the principle of mutual cooperation as a function of Taluk Panchayat. It would be desirable to include such provision in the PR Acts of other states as well.

In the PR Acts of Rajasthan, Karnataka and U.P. the function of preparing an annual plan in respect to the functions assigned to this body, and the function of considering and consolidating the annual plans of Gram Panchayats are also specifically mentioned. The other PR Acts surprisingly omit mention of this function at the intermediate level.

The list of functions in the PR Acts of the other states are much more detailed than that of Gujarat being most exhaustive. The functions entrusted to the Mandal/Taluk/Block Panchayats in the field of productive sectors covering agriculture, animal husbandry, small scale and cottage industry, etc. are usually similar. Functions related to agriculture generally cover maintenance of seed farms, horticultural nurseries, distribution of fertilizers and pesticides, marketing of

vegetables etc., training and extension activities, promotion of animal husbandry dairying and poultry include emphasis on improvement of breeds and provision of veterinary facilities. Construction and maintenance of minor irrigation works and implementation of community and individual irrigation works are also mentioned in the list of functions in most of the PR Acts.

The intermediate panchayats are entrusted with the supervision and promotion of social services like education and health. In the area of education promotion of primary education including construction, repairs and maintenance of primary school buildings is entrusted at the intermediate level. In some states, e.g. Karnataka and U.P. secondary education is also mentioned in the list of functions at this level. Gujarat PR Act lays down the functions and duties of the Taluk Panchayat in respect of primary education in much more detail. Part II of Schedule II is exclusively devoted to the responsibilities of the Taluk Panchayats in the field of primary education and includes as many as 17 provisions.

Functions related to health include promotion of health and family welfare programmes, immunisation and vaccination programmes and health and sanitation at fairs and festivals. The responsibility of looking after the Primary Health Centres. is mentioned in most of the PR Acts except in M.P., Karnataka and Gujarat.

In the sphere of means of communication, provision of civic amenities, programmes for social justice and social

welfare the responsibilities entrusted to the intermediate panchayats are on similar lines. Some of the specific functions included in PR Acts include the following : small savings and insurance (in Rajasthan and Gujarat), distribution of essential commodities through PDS (in U.P. and Karnataka), establishment of village defence corps (Gujarat), establishment of industrial townships at the Taluka level (Gujarat), provision of hostels for students of backward classes and SC and ST (Gujarat), sponsoring of voluntary institutions of social welfare (Gujarat and Karnataka), propaganda for prohibition and against drug addiction (Gujarat).

Sources of Revenue

There is no uniformity in the power of taxation and other sources of revenue devolved on the intermediate level panchayat. The provision in this respect in different states are given below.

The Andhra Pradesh PR Act has transferred the funds relating to institutions and schemes transferred by government to the Mandal Parishad, funds relating to community development programmes and aid received for the development of cottage and village industries. The Government may allocate to the Mandal Parishad a part of income of the Zilla Parishad and a share in the land revenue and state taxes and fees. Mandal Parishad may also levy

contributions from the Gram Panchayats. In addition the Act provides that the government shall make an annual grant at the rate of five rupees per person residing in the Mandal as per the last preceding census.

Fairly extensive financial provisions have been included in the Gujarat PR Act. Net proceeds from cess on water rate on irrigation not exceeding twenty paise on every rupee levied and collected by the state government is transferred to the Taluk Panchayat. The Taluk Panchayat may impose an education cess and any of the taxes and fees which are leviable by a Village Panchayat, provided that the rate of such a tax or fee shall not exceed 15 per cent of the rate of tax or fee levied by the Village Panchayat. These taxes and fees shall be collected by the Village Panchayats and paid to the Taluk Panchayat. A proportion of these receipts will be assigned to the Village Panchayats. A Taluk Panchayat may apply to the State Government for increasing the rate of stamp duty on sale and transfer of property situated within the limits of the taluka not exceeding 15 per cent of the duty leviable. The Taluk Panchayats are also paid 25 per cent of the balance of land revenue after meeting the expenditure on the salaries of the secretaries of the village Panchayats and Talatis and deducting 5 per cent of the fund into the State Equalization Fund. Grants to the Panchayat bodies shall also be made by the State Governments having regard to the recommendations of the Finance Commission.

Financial provisions for Taluk Panchayats are less extensive in Karnataka. A surcharge on stamp duty not exceeding three per cent of the value of property under consideration is leviable by the State government, proceeds of which are transferred to Taluk Panchayats in proportion of their population. The government has the obligation to make a grant to every Taluk Panchayat to cover its establishment expenses. In addition the government may make discretionary grants to PRIs. The Taluk Panchayat is also empowered to charge fees for any licences or permission issued by it and levy rent and fee for the occupation or use of land and other property under its control. In Karnataka a Taluk Panchayat is empowered to raise loans with prior permission of the government to carry out its functions.

The MP Act provides that the state government may assign to a panchayat such taxes tolls and fees levied and collected by it and may make grants-in-aid from the state funds. The Janapad Panchayat shall receive a share as prescribed by the state government in the land revenue and cess on land revenue and stamp duty. The Janapad Panchayat is also entitled to levy development tax on agricultural land, proceeds of which are to be shared with the Gram Panchayats. It would be obligatory on the Janapad Panchayat to levy tax on theatre or performances of public entertainments. Optional taxes to be imposed by the Janapad Panchayat include fees for any licence or permission granted by it or for use and occupation of lands and other properties under its control.

The following sources of revenue have been assigned to the Panchayat Samiti in Rajasthan : Surcharge on land revenue at the rate of 0.50 paise per rupee; assigned tax on trade, professions, business or industry; cess for primary education; and taxes on the fairs.

The U.P. Kshettra Panchayat and Zilla Panchayat Act assigns the following taxes to the Kshettra Panchayat : water tax on schemes provided by it, electricity tax for provision of lighting arrangement at a public street or other public places, and any other tax which may be assigned by the state. The Kshettra Panchayat is also empowered to levy fees for use or occupation of any immovable property including any public road under its control. It may charge licence fee for any licence or permission granted by it. A Kshettra Panchayat may impose fees or toll in any market established or managed by it. In addition the Kshettra Panchayat may charge, with previous sanction of the state government, fees for various services provided by it to the public in the area of its jurisdiction.

VI. DISTRICT LEVEL PANCHAYAT : Composition, Powers and Functions

At the apex of the PRIs is the district level Panchayat called District Panchayat in Gujarat and Zilla Panchayat in other states. Provisions pertaining to the District

Panchayat in different Acts have been discussed below.

Size

In U.P. and M.P. there is provision for one member for 50,000 population, while there is one member for 40,000 population in Karnataka. In M.P. the size of Zilla Panchayat may vary from 10 to 35, while in Gujarat the minimum size has been kept at 17. In Rajasthan there are 17 members upto 4 lakh of population and two additional members for every one lakh of population. In A.P. one member from every Mandal in the district is elected to the Zilla Panchayat.

Composition

In addition to the elected members there is provision of ex-officio or coopted members in the Zilla Panchayats. Local MLAs, MPs and MLCS are ex-officio members of the Zilla Panchayat in these states except in Gujarat where the MLAs are only permanent invitees. In M.P. and A.P. members of Lok Sabha and State Legislative Assembly from exclusively urban constituencies have been excluded from membership of Zilla Panchayat. The Adhyakshas of Taluk Panchayats in Karnataka and the Pramukhs of Kshettra Panchayats of the district in U.P. are also members of the Zilla Panchayats. In M.P. Chairman of District Cooperative Bank and District

Cooperative Development Bank are also members of the Zilla Panchayat. There is also provision for a coopted member belonging to SC or ST, if there is no elected member from this category. In A.P. two persons from the minorities are coopted to the Zilla Panchayat. In the A.P. Act the following officials are permanent invitees to the meetings of the Zilla Panchayat : Chairman of the District Cooperative Marketing Society, District Cooperative Central Bank and Zilla Grandhalaya Samstha, District Collector, and Presidents of Mandal Parishads.

Reservations

Reservation of seats for SC and ST, other backward castes and women have been provided in all the state Acts on same lines as in the Gram Panchayats.

Chair Persons

The presiding officer of Zilla Panchayat is variously known as President in M.P. and Gujarat, Chairman in A.P., Adhyaksha in Karnataka and U.P. and Pramukh in Rajasthan. The Chair Person and Vice Chair Person are indirectly elected by the elected members from among themselves. In M.P., however, all members have been given voting right to elect the President and Vice-Presidents from amongst the elected members. Reservation for various categories has been

ovided for the office of the Chair Person. In M.P. there is also a provision that if the President of the Zilla Panchayat does not belong to the SC or ST or other backward classes the Vice-President shall be elected from these categories.

Removal of Chair Person

The PR Acts contain provision for the removal of the Chair Person and Vice-Chair Person through a no-confidence motion by members by two-third majority of members in M.P., Rajasthan and Gujarat and by simple majority in U.P. and Karnataka. Such a resolution can, however, be brought only one year after assumption of office in M.P. and U.P. and 2 years after assumption of office in Rajasthan.

The state governments also possess the power to remove the Chair Persons of the Zilla Panchayats after giving him due opportunity to explain his case on grounds of misuse of authority or being persistently remiss in the discharge of his duties. The power is given to the designated authority in Gujarat.

Meetings and Quorum

The District Panchayat is required to meet at least once in a month in A.P. and M.P., once in two months in Karnataka and U.P. and once in three months in Gujarat and Rajasthan.

The quorum has been fixed at one-third of membership in Karnataka and Rajasthan. Other states, however, have preferred not to fix any quorum for the meetings of the Zilla Panchayats.

Staff

The Chief Executive Officer of the District Panchayat, called Secretary in Gujarat and M.P., is appointed by the State Government. In Gujarat, Rajasthan and U.P. the district development officer is ex-officio the CEO of the District Panchayat. In other states CEO is appointed by the State Government. In Karnataka CEO of the District Panchayat is an officer not below the rank of Deputy Commissioner. This provides necessary prestige and authority to the office of the CEO. In U.P. and Rajasthan the district level heads of the line departments have been put under the District Panchayat. In A.P. and Karnataka other staff is appointed by the State Government. In Gujarat a separate cadre of Panchayat Service has been created. In M.P. other staff of District Panchayat is appointed with prior approval of the State Government. The terms and conditions of service of the staff of PRIs are to be determined by the State Government.

Committees

A number of Committees are provided for in the PR Acts for the smooth functioning of the District Panchayats. Their

details are given below:

Andhra Pradesh

- (a) Planning and Finance Committee
- (b) Rural Development Committee
- (c) Agriculture Committee
- (d) Education and Medical Services Committee
- (e) Women Welfare Committee
- (f) Welfare Committee
- (g) Works Committee

Gujarat

- (a) Executive Committee
- (b) Social Justice Committee
- (c) Education Committee
- (d) Public Health Committee
- (e) Public Works Committee
- (f) Appeal Committee
- (g) Implementation Committee

Karnataka

- (a) General Standing Committee
- (b) Finance, Audit and Planning Committee
- (c) Social Justice Committee
- (d) Education and Health Committee
- (e) Agriculture and Industries Committee

Madhya Pradesh

- (a) General Administration Committee
- (b) Agriculture Committee
- (c) Education Committee
- (d) Communication and Works Committee
- (e) Cooperation and Industries Committee

Rajasthan

- (a) Administration, Finance and Taxation Committee
- (b) Committee for Production Programmes related to Agriculture, Animal Husbandry, Minor Irrigation, Small Industries, Cooperation, etc.
- (c) Education Committee
- (d) Social Justice and Services Committee

Uttar Pradesh

- (a) Executive Committee
- (b) Finance Committee
- (c) Education and Health Committee
- (d) Agriculture, Industries and Works Committee
- (e) Social Justice Committee

In addition the U.P. Act provides for a Planning Committee for the performance of functions provided in the Act composed of the following : Adhyaksha and Upadhyaksha of Zilla Panchayat, Mukhya Adhikari and all district level officers.

The differing pattern and number of committees reflect the emphasis put on different functions in different states. For instance while social justice committees have been provided in all the states there is a separate women welfare committee in A.P. Similarly in some states (Gujarat, M.P. and Rajasthan) there is a separate committee for education, whereas in other states there is a common committee for education and health. A.P. and M.P. also have a separate committee for agriculture while in other states this subject is grouped with other sectoral programmes. A distinguishing feature of A.P. Act is the provision of a Rural Development Committee, while in Gujarat there is an Implementation Committee and an Appeals Committee. Functions of administration have been lumped with that of finance in some states, whereas there is a separate Finance Committee in A.P., Karnataka and U.P.

Functions

The functions to be performed by the District Panchayats have been spelled out in varying details in different PR Acts. The A.P. and M.P. Acts have merely reproduced the Eleventh Schedule of the Constitution. The PR Acts of Karnataka, Rajasthan and U.P. closely follow the Eleventh Schedule also spelling out specific functions under each of the head. The functions are spelled out under 19 heads in Rajasthan Act, under 29 heads in Karnataka Act and under 31 heads in U.P. The list of functions of District-Panchayat is much more detailed and specific, though arranged under 11 heads only, in Gujarat Act.

Most of the PR Acts enjoin on the District Panchayat to supervise, coordinate and integrate the development plans prepared by the intermediate and lower level panchayat bodies.

The functions listed under the heads of agriculture, land improvement and soil conservation, animal husbandry and dairying, poultry, fishery and social forestry are generally similar and are promotional in nature. Construction and maintenance of minor irrigation works, distribution of water and development of ground water resources have generally been entrusted to District Panchayats.

Another important area entrusted to the District Panchayats is that of the promotion of small scale and Khadi,

Village and Cottage Industries including establishment and management of training-cum-production centres.

Promotion of drinking water, rural housing and rural electrification are also listed as functions of the District Panchayats in most of the Acts. Construction and maintenance of district roads, culverts and bridges and waterways also are made responsibilities of the District Panchayats.

Major responsibility has been given to District Panchayats in the field of primary and secondary education, technical training and vocational education as well as adult and non-formal education. In the Gujarat PR Act Part II of the schedule of functions of District Panchayat lists the functions and duties of Education Committee of a District Panchayat in detail.

District Panchayats have also important functions to play in the field of primary health care, implementation of maternity and child health programmes, immunisation and vaccination programmes and implementation of family welfare programmes.

The welfare activities of District Panchayats include programmes of women and child development, social welfare programmes, and programmes for the welfare of weaker sections specially SCs and STs.

Planning, supervision and monitoring the implementation of poverty alleviation programme are specifically mentioned

in most of the PR Acts, Gujarat being an exception. The M.P. Act gives the authority to control and supervise all programmes of DRDA to the Zilla Panchayat.

Though there is a general commonality in the functions of the District Panchayats, certain specific functions are included in different PR Acts. Such instances include public distribution system (in Karnataka and U.P.), promotion of cooperation (in Karnataka), campaign against social evils of castism, untouchability, drinking, dowry, etc. (Rajasthan), promotion of collective and inter-caste marriages (Rajasthan), freedom from bonded labour (Rajasthan), promotion of savings (Rajasthan).

A special feature of U.P. PR Act is incorporation of Part B in the schedule of functions to be performed by the Zilla Panchayat. This part includes a number of activities with respect to which the Zilla Panchayat may make reasonable provision, such as, laying out new public roads, reclaiming unhealthy localities, collection of vital statistics, prevention of pollution of rivers and other sources of water supply, promotion of tourism, etc.

The M.P. Act also enjoins on the Zilla Panchayat to control, coordinate and guide the lower level panchayats within the district, to coordinate the demand for grants for special purposes received from Janpad Panchayats and forward them to the State Government; and advise the State Government in the development activities, social forestry, family

welfare, welfare of destitutes, women, youth and children and sports.

In A.P. the Zilla Parishad has the power to examine and approve the budgets of Mandal Parishads in the district and distribute funds allotted to the district by the Central or State Government among the Mandal Parishads. The Zilla Parishad also coordinates and consolidates the plans prepared by the Mandals and supervises generally the activities of the Mandal Parishads in the district. It is also empowered to advise Government on all matters relating to development activities and maintenance of services in the district and other matters concerning implementation of government orders.

In addition to the functions listed in the PR Acts the State Government can also assign any other function or programme to the Zilla Panchayat as it may desire.

Sources of Revenue

The provisions with regard to sources of revenue of the District Panchayats show considerable variations. While in M.P. minimal provisions have been spelt out in the act regarding sources of revenue, the provisions are much more detailed in Gujarat PR Act. Other states fall in between these two extremes. The obligatory provision for setting up State Finance Commission has been incorporated in all the Acts to recommend grants-in-aid and share in taxes, etc. to different levels of PRTs. In general the sources of revenue

of the District Panchayat include a share in land revenue, taxes on property or professions, fees for licences, taxes and tolls on fairs, etc. In Rajasthan and Gujarat cess on stamp duty is also leviable by the District Panchayat. In A.P. there is a provision of a general grant according to the size of the population. Details of the sources of revenue of District Panchayats in different states are discussed below.

In A.P. the sources of revenue of the Zilla Parishad include share in land cess or local cess, state taxes or fees and proceeds from taxes or fees as prescribed by the State Government. The Zilla Parishad may levy contributions from the Mandal Parishads with the previous approval of the government. In addition the Government also makes an annual grant at the rate of two rupees per person residing in the district.

The Karnataka PR Act provides that the Government shall make a grant to every Zilla Panchayat to cover the expenses of establishment at such scale as may be determined by it. The Zilla Panchayat is empowered to charge fee for any licence or permission issued by it and levy rent and fee for the occupation or use of land or other property under its control. The Act also authorizes the Zilla Panchayat to raise loans and form a sinking fund with previous sanction of Government.

The M.P. PR Act simply states that the State Government may assign to a Panchayat such taxes, tolls and fees levied

and collected by the State Government and may make grant-in-aid from the consolidated fund of the state. The only specific mention in the Act is regarding the grant-in-aid to all Panchayats out of the fund pertaining to land revenue.

In Rajasthan the sources of income of the District Panchayat include grant-in-aid and share in land revenue and other taxes as determined by the State Government. The specific power of taxation of the Zilla Parishad include fees for fairs, water rate and cess on stamp duty on sale of rural property at a rate not exceeding 5 per cent and 1/2 per cent cess on Mandi fees. The District Panchayat is also authorized to borrow funds.

The provisions regarding finances of District Panchayat are more detailed and ingenious in Gujarat. The local cess leviable on lands is collected by the State Government and paid to the District Panchayat after deducting cost of collection. The District Panchayat may recommend a higher level of cess on land revenue in its jurisdiction. The District Panchayat in Gujarat is empowered to impose any of the taxes and fees which are leviable by a village Panchayat subject to a ceiling of 10 per cent of the actual rate charged by village panchayats or 10 per cent of the prescribed maximum rate if not levied by the village panchayat. A District Panchayat may also recommend to the Government increase in the rate of stamp duty in its jurisdiction upto the maximum of 20 per cent of the rate of

duty. District Panchayat shall also receive 10 per cent of the net proceeds of land revenue. District Panchayat also gets 2 per cent of the forest revenue collected from the district.

A special feature of the Gujarat PR Act is the creation of specific funds to meet the requirement of backward districts and villages. A State Equalization Fund has been created to which 5 per cent of land revenue proceeds are earmarked. The fund is utilized for making special grants to backward districts. At the district level 3 special funds have been created, namely, District Equalization Fund, District Village Encouragement Fund and District Development Fund. Seven and a half per cent of the net proceed of land revenue are credited to the District Equalization Fund, which is used to give special grants to backward Panchayats within the district. An equal amount is also credited to the District Village Encouragement Fund, which is utilized for making incentive grants to village panchayats to encourage them to raise their income. The third fund called District Development Fund consists of the contributions made by the village panchayats at the rate of 10 per cent of their income. The fund is utilized for granting loans to village panchayats in accordance with the rules made by the Government.

The U.P. Kshettra Panchayat and Zilla Panchayat Act empowers the Zilla Panchayat to levy (a) a tax on circumstances and property; and (b) any other tax which the

state government may authorize. The tax on circumstances and property is levied on a person residing or carrying on business in the rural area and his taxable income is not less than Rs.12000 per annum excluding agricultural income. The rate of tax shall not exceed three paise in the rupee on the taxable income. The net proceeds from this tax are to be shared with the Gram Panchayats.

The fees and tolls chargeable by Zilla Panchayat in U.P. include the following : (a) fee for use or occupation of any immovable property including any public road or place under its control; (b) fee for any licence or permission granted by it; (c) other fees with previous sanction of State Government such as school fee, fee for use of libraries and sarais, fee for use of any works and institutions constructed or maintained by it, fees for service of bulls and registration of animals, fees at fairs and markets and tolls for the use of bridges constructed, repaired or maintained by the Zilla Panchayat; and (d) licence fees and tools in respect of any market established, maintained or managed by it.

VII. BUDGET AND AUDIT

Every panchayat is required in the PR Acts to prepare an estimate of income and expenditure in the format to be prescribed for the financial year beginning 1st April. The budget has to be passed by the concerned panchayat by a prescribed date. The responsibility of preparing the budget

in case of Gram Panchayat has been put on the Panchayat Secretary in Karnataka. In case of Taluk Panchayat and Zilla Panchayat the Finance and Audit Committee is required to prepare the budget. In A.P. the responsibility of preparing the budget has been entrusted to the Development Officer in case of Mandal Panchayat and the Chief Executive Officer in case of the Zilla Panchayat. In Rajasthan the responsibility of preparing the budget of the concerned panchayat has been given to the Sarpanch, Vikas Adhikari and CEO. In U.P. this responsibility is fixed on the Executive Committee of the concerned body, while the position has not been defined in the M.P. Act.

The PR Acts lay down that the annual budget passed by the concerned panchayat has to be submitted by a prescribed date to the higher PR body or designated authority for approval. Generally the budget of the Gram Panchayat or intermediate panchayat is approved by the next higher level of PR body. In case of Zilla Panchayat the budget is required to be submitted to the Government for approval in most of the states. In U.P., however, this power has been given to the Divisional Commissioner. In M.P. and Gujarat Acts this authority has not been prescribed.

Furthermore, as per requirements of the Constitutional Amendment every state has made a provision for audit of the accounts of the PRIs. In Rajasthan and Gujarat the audit of PRIs has to be conducted by the Director, Local Fund Audit.

M.P. has preferred to provide for a separate and independent audit organization under the control of the state to perform audit of panchayats. In U.P. this body is to be prescribed by the Government. In Karnataka accounts of PRIs are to be audited by the Comptroller and Audit General of India.

VIII. ADMINISTRATIVE STRUCTURE

The staffing pattern and procedure of appointment of staff at different levels have been discussed earlier. Certain related aspects of administrative structure particularly related to the interface between the elected representatives and bureaucracy have been analysed in this section. The PR Acts are not very explicit and generally empower the State Governments to frame rules on the various aspects of administrative structure.

In Gujarat a separate cadre of Panchayat Service has been existing. The cadre consists of district cadre, taluk cadre and local cadre. The Rajasthan PR Act provides for the creation of a separate Rajasthan Panchayat Samiti and Zilla Parishad Service, for which recruitments would be district-wise. In Gujarat considerable powers to guide, control and supervise the activities of Panchayats have been vested with the Development Commissioner, who is a very senior officer in the state bureaucracy. Another innovative feature of Gujarat Panchayati Raj system is the creation of a State Panchayat

Council. The Council is an advisory body consisting of the following categories of members : (i) Minister in charge of the Panchayat Department as Chairman; (ii) Minister of State/Deputy Minister in charge of the Panchayat Department as Vice Chairman; (iii) Presidents of District Panchayats; (iv) seven members to be nominated by the State Government; (v) three officers to be nominated by the State Government; and (vi) three members to be elected by the State Assembly.

The administrative structure in different states is on similar lines. The chairman of the Zilla Panchayat exercises general administrative control over the Chief Executive Officer. In U.P. he has the right to send his yearly assessment report of the Chief Executive Officer to the Government. Executive power of supervision and control over officers and staff of the Zilla Panchayat is given to the CEO. In U.P., however, the Finance Officer of the Zilla Panchayat is excluded from his controlling power. In Gujarat the CEO of Zilla Panchayat also writes the confidential reports of the CEO of the Taluk Panchayats.

At the intermediate level also the chairman of the panchayat body exercises general supervisory and administrators control over the Chief Executive Officer, who in turn controls the other staff.

At the village panchayat level the power of supervision and control has been conferred on the chairman of the Gram Panchayat, who is responsible for financial and administra-

tive functioning of the Gram Panchayat. In U.P. PR Act the power to appoint, punish, dismiss and control a servant of the Gram Panchayat other than the Secretary has been given to the Gram Panchayat.

In general the principle of the supremacy of the elected representatives over the bureaucracy has been accepted in all the states. Similarly the lower level PRIs are expected to work under the supervision of the higher level PRIs. At the same time the state governments retain very substantial powers to control, inspect and supervise the Panchayati Raj institutions in the state as discussed in the following section.

IX. POWERS OF THE GOVERNMENT FOR CONTROL, INSPECTION AND DISSOLUTION

The PR Acts of different states bestow on the Government extensive powers for control, supervision, inspection and dissolution of the PRIs. The State Governments have the power to issue instructions for performance of a specific duty by the PRIs or to get the task performed by another authority and realize the cost from the panchayat. The State Government also has the power to prohibit the execution of a resolution or order passed by a panchayat or any officer or servant thereof if this order is against any law or is likely

to cause injury or annoyance to the public or to lead to a breach of peace, etc. The State Governments have further armed themselves with the general powers of controls over PRIs such as the power of inspection of any property, or work in progress or the books and records of a panchayat, or to institute any enquiry in respect of any matter relating to a panchayat. The State Governments have the general powers to frame any rules and regulations and give specific instructions to the PRIs. The powers of control and inspection are to be exercised by a competent authority designated for the purpose. The practice in this respect differs in different states. In U.P. District Magistrate has been given substantial powers for control and inspection, while in Karnataka the Divisional Commissioner enjoys these powers.

The State Governments have the power to dissolve a panchayat if it is of the view that it has exceeded or abused its power or is not competent to perform or makes persistent default in the performance of the duties imposed on it. But before taking such a decision opportunity shall be given to the concerned panchayat to offer its explanation or objections. In Karnataka this power is exercised by the Divisional Commissioner in respect to the Gram Panchayat and by the Government in respect of the Mandal Panchayat and the Zilla Panchayat. In other states the government or prescribed authority may exercise the power to dissolve a panchayat. In Gujarat this decision with respect to village

panchayat and Taluk Panchayat is to be taken in consultation with the concerned District Panchayat.

Thus, in effect the PRIs still remain the creatures of the State Government. The provisions for controls and dissolution may be justified on administrative grounds, but they militate against the true democratic spirit and provide opportunity for political misuse. The Seventy Third Constitutional Amendment, however, circumscribes such opportunities by laying down that there shall not be a gap of more than six months in the life of a panchayat body.

X. CONCLUSION

The above discussion reveals that even though the Panchayati Raj Acts of different states have incorporated the basic mandatory provisions of the Seventy-Third Constitutional Amendment, there are significant variations in the actual powers, functions and resources conferred on different levels of PRIs. In some Acts as in Gujarat the provisions have been spelt out in great detail, while in others much has been left to the discretion of the State Governments. These differences reflect the specific socio-economic circumstances of different states on the one hand and the degree of commitment of the Government and people of the state to the objective of democratic decentralization on the other hand.

The system of Panchayati Raj has evolved historically and administratively in specific way in different states. The variety of experiences one observes in the field of Panchayati Raj in different states is not only unavoidable but also welcome given their differing circumstances.